

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

GILBERTO PEREIRA BRITO, FLORENTIN
AVILA LUCAS, and JACKY CELICOURT,
individually and on behalf of all those similarly
situated,

Plaintiff-Petitioners,

v.

WILLIAM BARR, et al.,

Defendant-Respondents.

Case No. 19-11314-PBS

NOTICE OF SUPPLEMENTAL AUTHORITY

Petitioners respectfully submit this Notice of Supplemental Authority regarding Memorandum in Support of Petitioners' Motion for Summary Judgment or, in the Alternative, Preliminary Injunction (ECF No. 68). On page 5 of their memorandum, Petitioners cited preliminary injunctions entered in *Padilla v. ICE*, No. 18-928, 2019 WL 2766720, at *8 (W.D. Wash. July 2, 2019) & 379 F. Supp. 3d 1170, 1182 (W.D. Wash. 2019). It has come to the Petitioners' attention that the U.S. Court of Appeals for the Ninth Circuit granted a partial stay of the district court's April 5, 2019 and July 2, 2019 preliminary injunction orders pending an expedited appeal. See *Padilla v. ICE*, Case No. 19-35565 (slip op.) (9th Cir. July 22, 2019). A copy of the slip opinion is attached as Exhibit A to this Notice.

The *Padilla* appeal arises from the district court's preliminary injunction regarding the detention of noncitizens pursuant to 8 U.S.C. § 1225(b). The Attorney General had concluded that such noncitizens are not statutorily entitled to any bond hearing in *Matter of M-S*, 27 I&N Dec.

509, 518-19 (A.G. 2019). The district court’s preliminary injunction had ordered that bond hearings occur and also imposed certain procedural requirements. The Ninth Circuit stayed the procedural requirements that the government “hold [the bond] hearings within seven days, release any class members whose detention exceeds that limit, produce a verbatim transcript, shift the burden of proof to the Department of Homeland Security, and issue written decisions on the same day a bond hearing is held.” Slip. Op. at 3. The Ninth Circuit did not express a view on the merits of those requirements. *See id.* However, it nevertheless “conclude[d] that permitting [those] procedural requirements to take effect pending the outcome of this appeal—which would require the government to implement a set of rules that may only be temporary—would impose a short term hardship for the government and its immigration system, and that the public interest does not weigh heavily against a stay. . . . This result maintains the status quo ante during what is now an expedited appeals process.” *Id.*

Respectfully submitted,

GILBERTO PEREIRA BRITO, FLORENTIN
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individually and on behalf of all those similarly
situated,

By their attorneys,

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Dated: September 20, 2019

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2019, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ *Susan M. Finegan*
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